UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/520,687	03/07/2000	John Dung-Quang Ly	14013-33US	9101

			EXAMINER
27728	7590	03/16/2004	WON, YOUNG N

LAW OFFICES OF IMAM
111 N. MARKET STREET, SUITE 1010
SAN JOSE, CA 95113

ART UNIT	PAPER NUMBER
2155	7

DATE MAILED: 03/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	**Applicant(s)**
Office Action Summary	09/520,687	LY, JOHN DUNG-QUANG
	Examiner	**Art Unit**	
	Young N Won	2155	

-- Th MAILING DATE of this communication appears on the cover sheet with the correspond nce address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☐ Responsive to communication(s) filed on _____.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-26* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-26* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1.   Claims 1, 2, 7, 9, 12, 24, and 25 have been amended. New claim 26 has been

added. Claims 1-26 have been examined and are pending with this action.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act

of 1999 (AIPA) do not apply to the examination of this application as the application

being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily

published under 35 U.S.C. 122(b). Therefore, this application is examined under 35

U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2.   Claims 1-25 are rejected under 35 U.S.C. 102(e) as being anticipated by

Kodimer et al. (US 6003078A).

INDEPENDENT:

As per claim 1, Kodimer teaches of a network device assembly (see Fig.2)

employed in a communication system (see Fig.1 and col.2, lines 17-19) comprising: a

plurality of network devices (see Fig.1) capable of communicating network information

(see abstract), through a packet switching network (see col.2, lines 2-5), to a technical

support center (see col.1, lines 56-57: "service organization" and col.2, lines 2-5)

operated by technical support staff (see col.13, lines 26-28: "network administrator"),

said plurality of network devices coupled to said packet switching network through an

interface line (see Fig.1 and col.3, lines 8-11), each of the plurality of network devices

including one or more hardware subsystems and one or more software subsystems and

for monitoring the status of the hardware and software subsystems (implicit) included

therein and when a problem occurs either with respect to one or more of the hardware

and software subsystems of a particular one of the plurality of the network devices, the

particular network device sends a first message to the technical support center notifying

the technical support center of the problem (see abstract and col.1, line 63 to col.2, line

5) without interruption to the operation of the network device [implicit: According to the

reference, Kodimer teaches that the network device, "NIB" is a network interface board

which comprises it's own processor, memory, and instruction sets (see col.4, lines 23-

40), for the purpose of communicating with devices and making responsive decisions

(see col.4, lines 11-22), therefore, NIB performs it's operational functionality when the

device that the NIB is monitoring triggers an event, thus inherently uninterrupted. The

problem of the subsystems does not affect the operation of the network device, but

rather affects the network device to respond].

As per claim 12, Kodimer teaches a network device (see Fig.2) for use in

communication with a technical support center (see col.1, lines 56-57: "service

organization" and col.2, lines 2-5) operated by a technical support staff (see col.13, lines

26-28: "network administrator"), the technical support center being in communication

with the network device (see Fig.1) through a packet switching network (see col.2, lines

17-19 and col.3, line 65 to col.4, line 2), comprising: an interface line coupling said

network device to the packet switching network (see Fig.1 and col.3, lines 8-11); one or

more hardware subsystems (see Fig.4); one or more software subsystems (inherency;

see col.1, lines 28-32; and col.12, lines 10-12); and means for monitoring the status of

the hardware and software subsystems and said interface line (implicit: see col.4, lines

53-58) so that when a problem occurs with respect to one or more of the hardware or

the software subsystems or the interface line, the network device transmits a first

message to the technical support center to notify the technical support center of the

problem (see abstract and col.1, line 63 to col.2, line 5) without interruption to the

operation of the network device (see claim 1 rejection above).

As per claims 24 and 25, Kodimer teaches a method and a computer readable

medium having stored therein computer readable program code comprising instructions

(see Fig.3 and col.4, line 59), for detecting a problem in a network device (see abstract;

Fig.19; and col.12, lines 34-36) comprising: during the operation of the network device

(see abstract), the network device communicating network information through a packet

switching network to a technical support center (see col.1, lines 56-57: "service

organization" and col.2, lines 2-5) being operated by a technical support staff (see

col.13, lines 26-28: "network administrator"), the network device being coupled to the

packet switching network through an interface line (see col.3, lines 8-11), the network

device including one or more hardware subsystems (see Fig.4) and one or more

software subsystems (see Fig.1); monitoring the status of the hardware and software

subsystems (inherency; see col.1, lines 28-32; and col.12, lines 10-12) and the interface

line (implicit: see col.4, lines 53-58); detecting the occurrence of a problem associated

with one or more of the hardware or software subsystems or the interface line (see

abstract; Fig.19; and col.12, lines 34-36); and sending a first message to the technical

support center for notification of the problem so that the technical support staff is able to

diagnose the problem without interruption to the operation of the network device (see

abstract and col.1, line 63 to col.2, line 5 and claim 1 rejection above).

DEPENDENT:

As per claims 2 and 14, Kodimer further teaches wherein the interface line is an

Internet line (see col.1, lines 54-58) and the first message is in the form of an email

message (see col.13, lines 26-28).

As per claims 3 and 15, Kodimer further teaches wherein the first message is in

the form of a fax transmission (see col.1, lines 16-19).

As per claims 4 and 16, Kodimer further teaches wherein the first message is in

the form of a page (see Fig.16).

As per claim 5, Kodimer further teaches including a processor for executing

embedded software for monitoring the status of the hardware and software subsystems

(see Fig.2, #22).

As per claims 6 and 17, Kodimer further teaches wherein the packet switching network is the Internet (see col.1, lines 54-58).

As per claim 7, Kodimer further teaches of including a computer register for indicating the status of the hardware and software subsystems immediately before the problem occurs (see col.12, lines 59-62).

As per claim 8, Kodimer further teaches wherein the computer register includes error messages (see col.1, line 15) for identifying a particular hardware or software subsystem failure (see Fig.19 and col.12, lines 34-40).

As per claims 9 and 19, Kodimer further teaches wherein each of the plurality of network devices includes a remote diagnostic embedded process subsystem (see Fig.17), a hardware health status monitor subsystem and a software health status monitor subsystem, the remote diagnostic embedded process subsystem for communicating with the hardware health status monitor subsystem and the software health status monitor subsystem and for collecting status information provided by the software health status monitor subsystem and the hardware health status monitor subsystem and for detecting problems encountered by the hardware and software subsystems (see col.1, line 63 to col.2, line 5).

As per claims 10 and 22, Kodimer further teaches wherein the plurality of network devices is responsive to a second message generated by the technical support center for requesting further information regarding the problem (see Fig.18. steps S1801-S1806 and col.14, lines 3-5).

As per claims 11 and 18, Kodimer further teaches wherein at least one of the plurality of network devices is an access server (see abstract: "network peripheral device").

As per claim 13, Kodimer further teaches wherein the technical support staff is able to diagnose the problem without interruption to the operation of the network device (see Fig.16, #184; Fig.17; and col.10, lines 25-31).

As per claim 20, Kodimer further teaches wherein the remote diagnostic embedded process subsystem detects an error message (see col.1, line 15) prior to the transmission of the first message (see Fig.19 and col.12, lines 34-40).

As per claim 21, Kodimer further teaches wherein the remote diagnostic embedded process subsystem detects certain criteria (see col.1, lines 47-53) regarding the status of the network device prior to the transmission of the first message (see Fig.19 and col.12, lines 34-40).

As per claim 23, Kodimer further teaches wherein the network device is in communication with a user and further wherein the technical support center includes an email server (inherency) coupled to a command-formatter for communicating with a user interface, the email server for collecting the first message (see col.13, lines 26-28), the command-formatter for translating the first message into a format that is understandable to the user and the user interface for displaying information communicated between the network device and the user (see Fig.12; col.5, lines 12-22; col.6, line 61 to col.7, line 2; and col.10, lines 64-67).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3.   Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kodimer

et al. (US 6003078A) in view of Wiesenewsky (US 3925764 A).

As per claim 26, Kodimer further teaches wherein said plurality of network devices

included memory (see Fig.2, #31 and #34) and of a remote diagnostic embedded

process subsystem (see Fig.17), but Kodimer does not explicitly teach wherein the

remote diagnostic embedded process subsystem is coupled to a memory monitoring

subsystem for monitoring the memory of the network devices. Wiesenewsky teaches of

a memory monitoring subsystem for monitoring the memory of the network devices

(see). It would have been obvious to a person of ordinary skill in the art at the time the

invention was made to employ the teachings of Wiesenewsky within the system of

Kodimer by enabling the memory monitoring subsystem for monitoring the memory of

the network devices to couple the remote diagnostic embedded process subsystem

within the communication system because Kodimer teaches that "condition" and "status

information" is detected and obtained, respectively of the "network peripheral devise"

(see abstract). Therefore, to one of ordinary skill in the art, a database or a repository

constitutes a network peripheral device, and as such if a database or a repository was

implemented the NIB would conform to monitoring the elements of such devices within

the remote diagnostic embedded process subsystem b y the network administrator.

Response to Arguments

4.   Applicant's arguments filed January 14, 2004 have been fully considered but they

are not persuasive. The amendment does not teach any novel element in overcoming

prior art.

In response to the arguments regarding claim 7, clearly the above mentioned

reference location teaches of a threshold exceeded which triggers "condition"

("scheduled maintenance") of the "network peripheral device" (in the example provide

by Kodimer: a printer) in which clearly teaches of a pre-failure alarm.

In response to the arguments regarding claim 9, "a hardware and software health

status monitoring subsystem" is clearly taught in the independent claims. By merely

adding "health status monitor" does not distinguish the invention nor further limit the

invention over prior art. Clearly "status information" as taught by Kodimer teaches this

limitation.

Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not

clearly point out the patentable novelty which he or she thinks the claims present in view

of the state of the art disclosed by the references cited or the objections made. Further,

they do not show how the amendments avoid such references or objections. Although

Kodimer teaches the elements in the amended claims, even if Kodimer did not, the element of monitoring a communication line is neither distinct nor novel.

Conclusion

5.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Young N Won whose telephone number is 703-605-4241. The examiner can normally be reached on M-Th: 6AM-3PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Hosain T Alam can be reached on 703-308-6662. The fax phone number

for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Young N Won

March 8, 2004

HOSAIN ALAM
SUPERVISORY PATENT EXAMINER